

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**JIMMY PRESLEY, ET AL.**

**PLAINTIFFS**

**V.**

**CIVIL ACTION NO. 1:05CV239 LTS-JMR**

**MISSISSIPPI POWER COMPANY, ET AL.**

**DEFENDANTS**

**MEMORANDUM OPINION**

The Court has before it Plaintiff Jimmy Presley's (Presley) motion to remand. For the reasons set out below, the motion to remand will be granted.

This action has been brought by Presley and approximately 83 other property owners in Jackson County, Mississippi. The complaint was filed on September 27, 2001. This case, which is based upon the same facts and theories of law as the case styled Horne v. Mississippi Power Company, Civil Action No. 1:05cv238, was held in abeyance by the Chancery Court of Jackson County, Mississippi, while the Horne case was decided and appealed. The basic facts are summarized in the opinion of the Mississippi Supreme Court in Horne v. Mobile Area Water & Sewer System, 897 So.2d 972 (Miss. 2004).

Defendants removed this case for the first time on May 18, 2005, well after the thirty-day period allowed for removal under 28 U.S.C. §1446(b).

Defendants contend that the findings of the Mississippi Supreme Court in Horne v. Mobile Area Water & Sewer System, 897 So.2d 972 (Miss. 2004) have established that this case involves issues of federal law, creating federal question jurisdiction, but my reading of the Mississippi Supreme Court's opinion leaves me unconvinced that that is the case. Plaintiff's complaint states only state law claims, and, under well-settled principles of law, no federal question jurisdiction exists in these circumstances.

Accordingly, I will grant the motion to remand. An appropriate order will be entered.

This the 15<sup>th</sup> day of November, 2005.

*s/ L. T. Senter, Jr.*

L. T. Senter, Jr.  
Senior Judge